

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	
)	WC Docket No. 05-337
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	
)	CC Docket No. 96-45
Lifeline and Link-Up)	
)	WC Docket No. 03-109
Universal Service Reform – Mobility Fund)	
)	
)	WT Docket No. 10-208

**FRED WILLIAMSON & ASSOCIATES, INC. (FWA),
REPLY TO OPPOSITIONS TO THE USTELECOM PETITION FOR
RECONSIDERATION**

**I. THE COMMISSION SHOULD SUSPEND THE FORM 481 REQUIREMENTS UNTIL
AN ANALYSIS OF THEIR BENEFITS CAN BE MADE**

FWA provides financial and regulatory consulting services to Rural Rate of Return Local Exchange Carriers (RLECs) in Arkansas, Iowa, Kansas, Michigan, Missouri, Oklahoma and

Texas. FWA supports the USTelecom April 4, 2013¹ Petition's suggestion that the Federal Communication Commission (Commission) reconsider the Form 481 reporting requirements. These requirements should be suspended until an evaluation of alternatives that would minimize the burden on small entities is complete.

Most of the RLECs that FWA supports are small firms whose personnel provide customer service and/or maintain and deploy the network that provides voice and broadband services. Minimal personnel are available to spend time on additional and extensive reporting as required by the proposed 481 form. As a consequence, these RLECs must use consulting firms such as FWA to assist in the collection and reporting of financial and consumer data and engineering firms to prepare five year service quality build-out plans.² FWA and various engineering firms currently are in the process of compiling the data necessary to complete the proposed Form 481 and it is clear, particularly when the five year service quality improvement plans are considered,³ that the Commission has seriously underestimated the time to complete the entire Form 481 (including the five year plans). In the instructions for completing Form 481, the Commission

¹ The United States Telecom Association's Petition for Reconsideration and Clarification and Comments in Response to Paperwork Reduction Act, WC Docket No. 10-90, *et al.*, filed on April 4, 2013 ("USTelecom Petition"). In that petition, USTelecom seeks reconsideration and/or clarification of various reporting requirements contained in Section 54.313 of the rules of the Commission.

² Although the Commission recently suspended the application of the five-year service quality improvement plan for RLECs until July 1, 2014 (Connect America Fund, WC Docket No. 10-90, Order, DA 13-1115, released May 16, 2013), the burden of this Form 481 requirement remains in effect for each year beginning in 2014.

³ Even though the application of this requirement was suspended by the Commission for 2013, substantive work by engineering firms on the five-year improvement plans had been done by the time the Commission suspended the application of this requirement. However, this portion of the Form 481 is still required in 2014 and contributes substantially to the hours necessary to complete the Form 481.

provides a burden estimate of 20 hours.⁴ However, the time to complete this form in its entirety is likely to be closer to, or greater than 100 hours.

In this era of revenue constraints, where Universal Service Funding is minimized or reduced and Corporate Operations Expenses are capped, it is not clear that the excessive time and resources that small RLECs will spend on the Form 481 will provide useful information to the Commission and be beneficial to the public interest. Rather than transferring the burden of its oversight responsibilities to RLECs through the collection of massive quantities of data, particularly when revenues provided to the RLECs are unavailable to support the data collection, the Commission should, if it believes that there are problems, selectively review individual ETCs. FWA joins others in this proceeding and with those recently filing comments regarding the PRA burdens associated with Form 481,⁵ in requesting a thorough estimate of the burden that the information collection will impose, along with a more in-depth analysis of whether the burden that the reporting will impose is justified by the benefit the data will provide to the Commission if collected. Until that analysis is completed, the application of the Form 481 should be suspended.

II. THE COMMISSION SHOULD MODIFY THE TRIBAL ENGAGEMENT PROVISIONS OF 54.313 TO ELIMINATE THE REQUIREMENT FOR FORMER RESERVATION TRIBAL LANDS

In the USF/ICC Transformation Order, the Commission adopted Tribal engagement obligations that require ETCs to demonstrate on an annual basis that they have meaningfully engaged Tribal

⁴ Draft FCC Form 481, p. 1.

⁵ Comments in WC Docket 10-90 on April, 26, 2013 of AT&T; Blooston Rural Carriers; Cellular Network Partnership d/b/a Pioneer Cellular, et al; CenturyLink; John Staurulakis, Inc; NTCA, NECA, ERTA, ITTA & USTelecom (“the Associations”); Texas Statewide Telephone Cooperative, Inc. (“TSTCI”); US Cellular; and the Western Telecommunications Alliance.

governments in their supported areas regarding the deployment of communications services. The obligations apply to ETCs currently providing service or contemplating the provision of service on Tribal lands. Such Tribal engagement must include: (1) a needs assessment and deployment planning with a focus on Tribal community anchor institutions; (2) feasibility and sustainability planning; (3) marketing services in a culturally sensitive manner; (4) rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and (5) compliance with Tribal business and licensing requirements. Recipients of universal service support must “submit to the Commission and appropriate Tribal government officials an annual certification and summary of their compliance with this Tribal government engagement obligation. Carriers will be subject to potential reductions in universal service support should they fail to fulfill their engagement obligations.

The Commission’s Tribal engagement obligations appear to be designed to bring ETCs and Tribal government officials together in order to comply with Tribal regulations. However, the obligations/requirements make no distinction between sovereign Tribal lands and former reservation Tribal lands where the Tribes no longer are sovereign. On Tribal lands that consist of former reservations, individuals who are members of Tribes live alongside non-Tribal individuals and utilize the same community services and facilities as non-Tribal members, including telecommunications, education, and healthcare. On these former reservation lands served by RLECs, Tribal governments are not responsible for overseeing everything from basic government services to economic development in their communities. Instead, the process for deploying broadband is similar, if not identical to, to deploying broadband on non-Tribal land. The non-sovereign former reservations in these RLEC service areas are subject to municipal, county, and state laws and regulations, not Tribal regulation.

ETC obligations on former reservation Tribal lands facilitate and support connectivity to *all* subscribers located within a RLECs service area, regardless of whether or not the area consists of Tribal lands and regardless of whether or not the requesting customer is a member of an American Indian Tribe. Therefore, the engagement obligations and actions described in section 54.313(a)(9) of the Commission's rules are redundant when it comes to the goal of providing advanced services to Tribal members living in the RLECs' former reservation service area.

Further, in reality, in former reservation Tribal lands, there is no Tribal government or official with whom the RLEC serving those areas can engage to satisfy the Commission requirements in section 54.313(a)(9) of its rules. As a consequence, it will be exceedingly difficult for RLECs serving former Tribal lands to comply with the Commission's Tribal engagement obligations in any meaningful fashion. Therefore, at a minimum, if this requirement is maintained, the Commission should waive and refrain from strictly applying the Tribal engagement and reporting obligations for these RLECs.

III. CONCLUSION

The Commission should suspend the application of Form 481 until such time as a thorough and evaluation of the requirement is conducted. If the Tribal Engagement provisions are maintained, the Commission should waive the provisions of Section 54.313(a)(9) in former reservation Tribal lands.

Respectfully submitted,

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